

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 3729

NOONNOON



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION COMMISSION

2019 APR 30 AM 10:51

**SENSITIVE**

April 30, 2019

**MEMORANDUM**

TO: The Commission

THROUGH: Alec Palmer *AP*  
Staff Director

FROM: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Debbie Chacona *DC*  
Assistant Staff Director  
Reports Analysis Division  
*KDR*

BY: Kristin D. Roser  
Compliance Branch

SUBJECT: Reason to Believe Recommendation -  
Failure to File 48-Hour Notices under the Administrative Fines Program

Attached is the name of a principal campaign committee that has failed to file 48-hour notices with the Commission for contributions of \$1,000.00 or more received from (1) the close of books for the Arizona 2018 12 Day Pre-Primary Report up to 48 hours before the August 28, 2018 Primary Election, and (2) from the close of books for the 2018 12 Day Pre-General Report up to 48 hours before the November 6, 2018 General Election, in accordance with 52 U.S.C. § 30104(a) and 11 CFR. § 104.5(f). The committee, Brill for Congress, represents a candidate who lost the General Election. The committee is being referred for failing to file 48-hour notices for contributions totaling \$64,500.00.

A 48-hour notice is required to report all contributions of a \$1,000.00 or more, to any authorized committee of a candidate, including contributions from the candidate, loans from the candidate and other non-bank sources and endorsements or guarantees of loans from banks, as per 11 CFR § 104.5(f).

We have attached an information sheet which includes the contributor name, date of receipt, 48-hour notice reporting period, and amount of the contributions for which a 48-hour notice was not filed.

In accordance with the schedule of civil money penalties outlined within 11 CFR § 111.44, this committee should be assessed the civil money penalty so indicated.

**Recommendation**

1. Find reason to believe that Brill for Congress and David Brill, in his official capacity as treasurer, violated 52 U.S.C. § 30104(a) and make a preliminary determination that a civil money penalty of \$7,326 be assessed.
2. Send the appropriate letter.

**Attachment**

**Contributions for Which a 48-Hour Notice Was Not Received**

AF 3729

Committee ID: C00664342

Committee Name: Brill for Congress

Report Type: October Quarterly Report (8/9/2018 – 9/30/2018)

30 Day Post-General Report (10/18/2018 – 11/26/2018)

Primary 48-Hour Reporting Period: 8/9/2018 – 8/25/2018

General 48-Hour Reporting Period: 10/18/2018 – 11/3/2018

CONTRIBUTOR	DATE OF RECEIPT BY COMMITTEE	AMOUNT	REPORTING PERIOD
ROSING, WAYNE	8/9/18	\$2,700.00	P2018
BRILL, DAVID	8/10/18	\$20,000.00	P2018
REVELES, ROBERTO	8/10/18	\$1,000.00	P2018
ROE, WILLIAM	8/10/18	\$1,700.00	P2018
FITZMORRIS, TY	8/12/18	\$5,400.00	P2018
HAUDENCHILD, CHARLYN	8/13/18	\$1,000.00	P2018
MCCLEARY, GLENDA	8/14/18	\$1,000.00	P2018
FRANKEL, MATTHEW	8/16/18	\$1,000.00	P2018
BRILL, DAVID	8/20/18	\$25,000.00	P2018
LOO, EDDIE	8/21/18	\$1,000.00	P2018
ALWARD, LESLEY	8/22/18	\$1,000.00	P2018
INDIVISIBLE PROJECT INC.	10/19/18	\$2,700.00	G2018
GODDARD, TERRY	11/2/18	\$1,000.00	G2018
		\$64,500.00	

**Proposed Civil Money Penalty: \$7,326 ((6 Notices Not Filed at \$146 each) + (10% of the Overall Contributions Not Reported))**

Federal Election Commission  
Reason to Believe Circulation Report  
48-Hour Notification Report

4/30/2019 8:41 AM

AF#	Committee ID	Committee Name	State	Election	Candidate Name	Treasurer	Prev Violations	Notices Not Filed	LOA	Penalty
3729	C00864342	BRILL FOR CONGRESS	AZ	2018	DAVID H BRILL	DAVID BRILL	0	6	\$64,500	\$7,326

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) AF 3729  
Reason to Believe Recommendation - )  
Failure to File 48-Hour Notices under the )  
Administrative Fines Program: Brill for )  
Congress and David Brill, in his official )  
capacity as treasurer )

CERTIFICATION

I, Dayna C. Brown, Secretary and Clerk of the Federal Election  
Commission, do hereby certify that on May 07, 2019, the Commission decided  
by a vote of 4-0 to take the following actions in AF 3729:

1. Find reason to believe that Brill for Congress and David Brill,  
in his official capacity as treasurer, violated 52 U.S.C. § 30104(a)  
and make a preliminary determination that a civil money penalty  
of \$7,326 be assessed.
2. Send the appropriate letter.

Commissioners Hunter, Petersen, Walther, and Weintraub voted  
affirmatively for the decision.

Attest:

May 7, 2019  
Date

Dayna C. Brown  
Dayna C. Brown  
Secretary and Clerk of the Commission



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

May 8, 2019

David Brill, in official capacity as Treasurer  
Brill for Congress  
240 S. Montezuma Street, Suite 106  
Prescott, AZ 86303

C00664342  
AF#: 3729

Dear Mr. Brill:

The Federal Election Campaign Act of 1971, as amended, 52 U.S.C. § 30101, *et seq.* ("the Act"), requires principal campaign committees of candidates for federal office to notify in writing the Federal Election Commission ("FEC") and the Secretary of State, as appropriate, of any contribution of \$1,000 or more, received by any authorized committee of the candidate after the 20th day, but more than 48 hours before, any election. 52 U.S.C. § 30104(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. *Id.* These notification requirements are in addition to all other reporting requirements. 52 U.S.C. § 30104(a). Our records indicate that Brill for Congress did not submit 48-Hour Notices for contributions of \$1,000 or more, received between August 9, 2018 and August 25, 2018, and between October 18, 2018 and November 3, 2018, totaling \$64,500, as required by 52 U.S.C. § 30104(a)(6)(A). Attachment 1.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a). 52 U.S.C. § 30109(a)(4). On May 7, 2019, the FEC found that there is Reason to Believe ("RTB") that Brill for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file the 48-Hour Notices. Based on the FEC's schedule of civil money penalties at 11 CFR § 111.44, the amount of your civil money penalty calculated at the RTB stage is \$7,326. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 2. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. The amount of the civil money penalty is \$146 for each non-filed notice plus 10 percent of the dollar amount of the contributions not timely reported. The civil money penalty increases by 25 percent for each prior violation. Send your payment of \$7,326 within forty (40) days of the finding, or by June 16, 2019.

At this juncture, the following courses of action are available to you:

**1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty**

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response to the FEC's Office of Administrative Review, 1050 First Street, NE, Washington, DC 20002. Your response must include the AF# (found at the top of page 1 under your committee's identification number) and be received within forty (40) days of the Commission's RTB finding, or June 16, 2019. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. District Court under 52 U.S.C. § 30109. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

#### **1. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge**

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Brill for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate



action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

**2. If You Choose to Pay the Civil Money Penalty**

If you should decide to pay the calculated civil money penalty, follow the payment instructions on page 4 of this letter. Upon receipt of your payment, the FEC will send you a final determination letter.

**NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS**

**4. Partial Payments**

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.


**5. Settlement Offers**

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the calculated civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2). Unless you notify the FEC in writing that you wish the matter to be made public, it will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) until it is placed on the public record at the conclusion of this matter in accordance with 11 CFR § 111.42.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Jamie Sikorsky in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1158) or (202) 694-1158.

On behalf of the Commission,



Ellen L. Weintraub  
Chair

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**ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 CFR § 111.44, the amount of your civil money penalty calculated at RTB is \$7,326 for the 2018 Arizona Primary Election and 2018 General Election 48-Hour Notification Reports.

You may remit payment by ACH withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit [www.fec.gov/af/pay.shtml](http://www.fec.gov/af/pay.shtml) to be directed to Pay.gov's Administrative Fine Program Payment form.

This penalty may also be paid by check or money order, made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission  
P.O. Box 979058  
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please send to:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**

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FOR: Brill for Congress

FEC ID#: C00664342

AF#: 3729

PAYMENT DUE DATE: June 16, 2019

PAYMENT AMOUNT DUE: \$7,326

**Contributions for Which a 48-Hour Notice Was Not Received**

AF 3729

Committee ID: C00664342

Committee Name: Brill for Congress

Report Type: October Quarterly Report (8/9/2018 – 9/30/2018)

30 Day Post-General Report (10/18/2018 – 11/26/2018)

Primary 48-Hour Reporting Period: 8/9/2018 – 8/25/2018

General 48-Hour Reporting Period: 10/18/2018 – 11/3/2018

CONTRIBUTOR	DATE OF RECEIPT BY COMMITTEE	AMOUNT	REPORTING PERIOD
ROSING, WAYNE	8/9/18	\$2,700.00	P2018
BRILL, DAVID	8/10/18	\$20,000.00	P2018
REVELES, ROBERTO	8/10/18	\$1,000.00	P2018
ROE, WILLIAM	8/10/18	\$1,700.00	P2018
FITZMORRIS, TY	8/12/18	\$5,400.00	P2018
HAUDENCHILD, CHARLYN	8/13/18	\$1,000.00	P2018
MCCLEARY, GLENDA	8/14/18	\$1,000.00	P2018
FRANKEL, MATTHEW	8/16/18	\$1,000.00	P2018
BRILL, DAVID	8/20/18	\$25,000.00	P2018
LOO, EDDIE	8/21/18	\$1,000.00	P2018
ALWARD, LESLEY	8/22/18	\$1,000.00	P2018
INDIVISIBLE PROJECT INC.	10/19/18	\$2,700.00	G2018
GODDARD, TERRY	11/2/18	\$1,000.00	G2018
		<b>\$64,500.00</b>	

**Proposed Civil Money Penalty: \$7,326** ((6 Notices Not Filed at \$146 each) + (10% of the Overall Contributions Not Reported))



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
2019 JUN 21 AM 8:52

**SENSITIVE**

June 20, 2019

**MEMORANDUM**

TO: The Commission

THROUGH: Alec Palmer *AP*  
Staff Director

FROM: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Debbie Chacona *DC*  
Assistant Staff Director  
Reports Analysis Division

BY: Kristin D. Roser *KH for KDR*  
Reports Analysis Division  
Compliance Branch

SUBJECT: Administrative Fine Program – Final Determination Recommendation for  
Failure to File 48-Hour Notices

Attached is a list identifying a political committee and its treasurer against which the Commission has found reason to believe (RTB) and assessed a proposed civil money penalty calculated at RTB for failure to file the appropriate 48-Hour Notices for the Arizona 2018 Primary and General Election. The committee has paid the civil money penalty requested at RTB.

In accordance with 11 CFR § 111.34, the Commission shall send a final determination notice to the respondent that has paid the civil money penalty.

**RAD Recommendation**

- (1) Make a final determination that the political committee and its treasurer listed on the attached report violated 52 U.S.C. § 30104(a) and assess the final civil money penalty so indicated.
- (2) Send the appropriate letter.

Federal Election Commission  
Final Determination Circulation Report  
48-Hour Notification Report

6/20/2019 3:46 PM

AF#	Committee ID	Committee Name	State	Election	Candidate Name	Treasurer	Prev Violations	Notices Not Filed	LOA	RTB Date	RTB Penalty	FD Penalty	Date Paid	Amount Paid
3729	C00864342	BRILL FOR CONGRESS	AZ	2018	DAVID H BRILL	DAVID BRILL	0	5	\$64,500	05/07/2019	\$7,326	\$7,326	06/14/2019	\$7,326

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) AF 3729  
Administrative Fine Program - Final )  
Determination Recommendation for )  
Failure to File 48-Hour Notices: Brill for )  
Congress and David Brill, Treasurer )

CERTIFICATION

I, Laura E. Sinram, Acting Secretary and Clerk of the Federal Election Commission, do hereby certify that on June 27, 2019, the Commission decided by a vote of 4-0 to take the following actions in AF 3729:

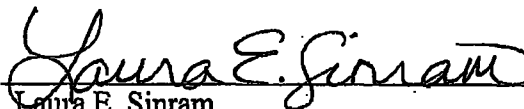
1. Make a final determination that Brill for Congress and David Brill, Treasurer violated 52 U.S.C. § 30104(a) and assess the final civil money penalty in the amount of \$7,326.
2. Send the appropriate letter.

Commissioners Hunter, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

6/28/19

Date



Laura E. Sinram  
Acting Secretary and Clerk of the  
Commission



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 2, 2019

David Brill, in official capacity as Treasurer  
Brill for Congress  
426 S Alarcon  
Prescott, AZ 86303

C00664342  
AF#: 3729

Dear Mr. Brill:

On May 7, 2019, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Brill for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) for failing to file 48-Hour Notices for contributions of \$1,000 or more, received between August 9, 2018 and August 25, 2018, and between October 18, 2018 and November 3, 2018, totaling \$64,500. By letter dated May 7, 2019, the Commission notified you of the RTB finding and the civil money penalty calculated at the RTB stage totaling \$7,326 in accordance with the schedule of penalties at 11 CFR § 111.44.

On June 14, 2019, the FEC received payment of the civil money penalty calculated at the RTB stage. The FEC made a final determination on June 27, 2019 that Brill for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a), assessed a civil money penalty in the amount of \$7,326 in accordance with 11 CFR § 111.44 and voted to close the file.

The confidentiality provisions at 52 U.S.C. § 30109(a)(12) no longer apply and this matter is now public. Pursuant to 11 CFR §§ 111.42(b) and 111.20(c), the file will be placed on the public record within thirty (30) days from the date of this notification.

If you have any questions regarding this matter, please contact Jamie Sikorsky on our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

On behalf of the Commission,

A handwritten signature in cursive script that reads "Ellen L. Weintraub".

Ellen L. Weintraub  
Chair

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 3729

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